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| **Disclosure, PVG and Part V**  **Standard Operating Procedure** |

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| This SOP provides clear direction and procedural instruction to provide a consistency of response in accordance with force policy, however it is recognised that policing is a dynamic profession and the standard response may not be appropriate in every circumstance. In every situation, your decisions and actions should be supported by the National Decision Model and based on the values and ethics of Police Scotland. You may be expected to provide a clear and reasonable rationale for any decision or action which you take. |
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| **Owning Department:** | Information Management |
| **Version Number:** | 2.00 (Publication Scheme) |
| **Date Published:** | 15/10/2021 |

# Purpose & Scope

This Standard Operating Procedure (SOP) supports the Police Service of Scotland, hereafter referred to as Police Scotland, Policy for Protection of Vulnerable Groups.

The Protection of Vulnerable Groups (Scotland) Act 2007 (PVG) provides a legislative framework for the disclosure of criminal convictions, both spent and unspent under the Rehabilitation of Offenders Act 1974, and relevant 'non-conviction information’ about people working with children and/or vulnerable adults to employers and prospective employers.

‘Non-conviction information’ is that which relates to the applicant and which the Chief Constable ‘reasonably believes to be relevant’ to the regulated workforce under consideration, whether in the paid or voluntary sector, and which 'ought to be disclosed' to an employer or prospective employer.

The PVG scheme is administered by Disclosure Scotland (DS), an agency of the Scottish Government which has a responsibility to maintain PVG Scheme membership records for people who undertake regulated work with children, protected adults or both. Scottish Ministers must also maintain a list of those individuals who are barred from working with children, protected adults or both.

PVG Scheme membership is valid for the working/volunteering life of the individual, or until they withdraw from the Scheme. It is **not** mandatory to become a PVG Scheme member in order to work with children or vulnerable adults. The legislation creates offences for listed persons to gain, or seek to gain, employment in a regulated workforce post and for organisations to employ such a barred person in a regulated workforce post.

PVG Section 49 provides Police Scotland with a statutory power to disclose information. This provision satisfies the legitimising conditions in the Data Protection Act 2018 to disclose information, acknowledging that any disclosure decision taken by Police Scotland will involve an assessment of relevance and proportionality in order to meet the 'necessity' requirement of those conditions.

# 2. Protection of Vulnerable Groups Scheme

## PVG Scheme Processes

* Ensuring that relevant information relating to individuals who are PVG Scheme members is recorded timeously and accurately on the Scottish Intelligence Database (SID), Scottish Criminal History System (CHS) and other police information systems;
* Receipt and return of scheme membership applications from DS where an appropriate ‘trigger’ exists on an applicant’s CHS record;
* The assessment of Other Relevant Police Information (ORI) relating to individuals who apply for PVG Scheme membership, or who are PVG Scheme members;
* The disclosure of information to DS as vetting information;
* The provision of information to DS to assist the Scottish Ministers with decisions whether to include an individual on the lists of those banned from working with vulnerable groups; and
* Consideration of requests for correction or review of PVG Scheme members.

## Assessment of Relevant Police Information for Applicants to the PVG Scheme

* The assessment of police information and the recording of decision-making relating to disclosure is undertaken by Information Management (IM).
* DS adds details of a PVG scheme member's convictions held on the CHS to their scheme membership record, other than those convictions that are protected from disclosure under other legislation.
* Non-conviction information and background information on relevant convictions is collated from relevant police information systems and assessed for disclosure by IM, using the guidance in the Quality Assurance Framework (QAF).
* Approved information is disclosed to DS by IM on behalf of PS as 'vetting information'.

## Ongoing Monitoring and Continuous Update of PVG Scheme Records

* Once an individual is a PVG scheme member, Police Scotland is obliged to submit any new vetting information that is relevant, reasonably believed to be true, and ought to be disclosed to DS to ensure the scheme member’s record is continually updated. It is the responsibility of Scottish Ministers (via DS) to maintain and update PVG scheme records.
* To carry out continuous updating of scheme membership records, IM will consider information relating to scheme members captured on all relevant police information systems and, where appropriate, disclose approved new vetting information to DS.

## Requests for Review or Correction of PVG Scheme Record

* PVG Scheme members may request correction or reconsideration of information included on their scheme record which was provided by Police Scotland. Requests affecting police information are referred to Police Scotland by DS.
* Requests for correction of factual errors can be resolved without referral of the request for an independent review.
* Where the rationale or decision to disclose police information is contested, a designated signatory in IM who did not participate in the initial decision-making process, will carry out a review, and if appropriate, amend any vetting information disclosed to the PVG Scheme record.

# 3. Part V of the Police Act 1997

Part V of the Police Act 1997 is another legislative framework for the disclosure of criminal convictions and non-conviction information and is the means by which information is disclosed for employment purposes for applicants in England, Wales and Northern Ireland. It is also the means by which information is disclosed for employment purposes in Scotland for those people not covered by the PVG scheme. Separate versions of Section 113B of the Act, which provides Police Scotland with the power to disclose information, operate in England, Wales, Scotland and Northern Ireland.

The Part V process offers three levels of check:

* Basic Disclosure (Criminal Conviction Certificate);
* Standard Disclosure (Criminal Record Certificate); and
* Enhanced Disclosure (Enhanced Criminal Record Certificate).

## Basic Disclosure

Basic Disclosure is the lowest level of check and is available to anyone for any purpose, on payment of the appropriate fee. It contains details of convictions considered unspent under the Rehabilitation of Offenders Act 1974, or states that there are no such convictions.

## Standard Disclosure

Standard Disclosure is available on payment of the appropriate fee, subject to the application first being countersigned by a registered person (usually the potential employer or voluntary organisation). The certificate includes both spent and unspent convictions.

This level of disclosure may be required for the following occupations:

1. Those involving regular contact with persons under 18, the elderly, sick or disabled;
2. Those checked in the interests of national security;
3. Those involved in the administration of the law;
4. Applicants for Firearms, Explosives and Gaming Licences;
5. Professional groups in Health, Pharmacy and Law;
6. Senior Managers in Banking; or
7. Persons registered by the Security Industry Authority.

## Enhanced Disclosure

Enhanced Disclosure is the highest level of check. The application process is identical to that of a Standard Disclosure.

This type of disclosure will show the applicant's spent and unspent convictions, subject to any filtering, and may also contain other conviction and non-conviction information held by the Police.

In Scotland, this type of disclosure has been retained for a small number of occupations, deemed to fall out with the scope of the PVG legislation, including:

1. Adoption;
2. Applicants for various Gaming and Lottery Licences; and
3. Those seeking Judicial Appointment.

Applications under Part V of the Police Act 1997 are handled by the Disclosure & Barring Service (DBS) (England and Wales), by Access Northern Ireland (ANI) (Northern Ireland) and by DS (Scotland).

# 4. Part V Processes

DS, DBS and ANI notify IM when they believe that Police Scotland may hold information relevant to an applicant for an enhanced criminal record certificate.

IM collates information from relevant police information systems and assesses it for disclosure following the Statutory Disclosure Guidance (Held Locally) underpinning the relevant version of Part V of the Police Act 1997, and the QAF.

Approved information is disclosed to DS, DBS or ANI by IM on behalf of Police Scotland for inclusion on an enhanced criminal record certificate.

Part V certificate holders may dispute the accuracy of information included on their criminal record certificate. Requests affecting information supplied or held by Police Scotland will be referred to Police Scotland by DS, DBS and ANI.

Disputes will be dealt with in the same way as requests for correction or review under PVG legislation (see above).

Appeals to the Independent Monitor on the outcome of Part V disputes will be handled by IM.

Requests for information under the Safeguarding Vulnerable Groups Act 2006, Schedule 3, paragraph 19, to assist with decisions whether to bar an individual from regulated work, will also be handled by IM.

# 5. Roles and Responsibilities

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| **Police Officers & Police Staff** | **Operational responsibilities**   * Ensure any relevant information gathered during operational enquiries is recorded on SID and other relevant police information systems as soon as reasonably practical. Information is relevant when the behaviour of an individual or circumstances of an incident gives rise to a concern that an individual may be unsuitable to work with or care for children or vulnerable adults. Whilst the list is not exhaustive, operational enquiries involving sexual offences, dishonesty, violence, misuse of drugs, arson/fire-raising or breach of the peace may yield PVG relevant information. * Cause a check to be conducted against the CHS/PVG database to establish whether the individual is a PVG scheme member or is barred from undertaking regulated work. NB: PVG scheme membership **will not** show on a paper print of a CHS record – the PVG result only appears on a live ‘screen view’ of CHS and must be requested from the Area Control Room operator at the same time as a CHS check is requested.   **Submission of intelligence**   * Where PVG relevance is established and the submission of a SID log is deemed appropriate, the title of the SID log must be endorsed with ‘PVG’ as a prefix to any other title. This will ensure that police officers and police staff performing the Local Intelligence Officer (LIO) role give the appropriate attention and priority to this log. Individuals who are barred from regulated work (or 'listed') represent a particular risk to children or the vulnerable. It is a criminal offence for such individuals to seek or to undertake regulated work (whether paid or voluntary) with children and/or vulnerable adults. Any behaviour of concern by a listed individual should be the subject of a SID log. * Details of the individual’s conduct, employment status and nature of duties, paid or voluntary, should be accurately recorded so that their SID nominal record can be updated and the appropriate risk assessment undertaken. * LIOs involved in the sanitisation of SID logs must message any logs marked with a PVG pre-fix to the PVG Unit SID Users Group (SUG) as a priority. Where a PVG pre-fix does not exist but the subject of a SID log is found by the LIO to be an existing PVG scheme member, the log should also be messaged to the SUG if the content of the information infers a potential risk to the protection of vulnerable people. * LIOs must not weed or delete intelligence which contains a PVG marker until it has been established, through contact with Information Management, that the intelligence is no longer needed for PVG purposes.   **Markers for Relevant Individuals on CHS**   * LIOs following local protocol are responsible for creating a CHS record and/or updating it with an appropriate intelligence marker for any individuals created as a nominal on SID. |
| **Information Management** | * Receive and log enhanced disclosure and PVG scheme enquiries and associated requests from DS, DBS and ANI for assessment of police information held by the Service. * Collate and assess all police information relating to the enquiry. * Monitor police information relating to PVG scheme members in order to continuously update their scheme records. * In assessing and approving police information for disclosure, apply tests of relevancy, accuracy, necessity, currency, proportionality and impact on human rights of applicants/PVG scheme members and others, to all information under consideration. * Administer appeals, disputes, representations and appeals to the Independent Monitor against police information disclosed. * Maintain an auditable administration system in relation to enhanced disclosure, PVG enquiries and disputes/appeals/representations and appeals to the Independent Monitor in accordance with the Record Retention SOP. * Ensure that IM staff are appropriately trained to assess information for disclosure, and to take disclosure decisions as designated signatories for Police Scotland.   Police staff in the roles of Lead Information Disclosure Officer, Disclosure Manager, and Information Manager (Disclosure), once trained, are designated signatories for disclosure of information under PVG and Part V for Police Scotland.  **Markers for Relevant Individuals on CHS**   * IM staff have the authority to add, or cause to be added, an appropriate Intelligence Office marker to an individual’s record on the CHS, based on information sourced from police incident records or SID, or to delete a marker when PVG relevant intelligence is no longer held. * IM is responsible for authorising a Data Protection Marker to be added to or deleted from an individual’s record on CHS. |
| **Firearms Licensing Department** | **Markers for Relevant Individuals on CHS**   * Responsible for adding or deleting a ‘Firearms/Shotgun/Explosives Revocation or Refusal’ indicator, to an individual’s record on CHS, and to add a corresponding SID log. |

# 6. Key Contacts

Further information and advice can be sought by contacting your local Information Management (Disclosure), PVG Team or by emailing:

**Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 35, Law Enforcement.**

Compliance Record

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| Equality and Human Rights Impact Assessment (EqHRIA):  Date Completed / Reviewed: | 25/08/2021 |
| **Information Management Compliant:** | Yes |
| **Health and Safety Compliant:** | Yes |
| **Publication Scheme Compliant:** | Yes |

Version Control Table

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| Version | History of Amendments | Approval Date |
| 1.00 | Initial Approved Version | 22/03/2013 |
| 1.01 | ACPOS Recommended Record Retention Periods Schedule has been superseded by the Police Scotland Records Retention SOP - Altered to reflect this. | 19/04/2013 |
| 2.00 | Content fully revised and rationalised in line with new SOP review principles. | 15/10/2021 |